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June 25, 1998

Mr. Rick Breitenbach
CALFED Bay-Delta Program
1416 Ninth Street, Suite 1155
Sacramento, CA 95814

Dear Mr. Breitenbach:

Subject: MWDOC Comments on CALFED Draft EIS/EIR

Municipal Water District of Orange County (MWDOC) is a wholesale water import agency and member of Metropolitan Water District of Southern California. MWDOC represents 27 retail agencies, which serve approximately 2.0 million people in Orange County. The water resources pool in Orange County includes groundwater and other local supplies, water use efficiency, recycling, and, import water from the Colorado River and State Water Project (SWP). Currently, MWDOC imports approximately 260,000 acre-feet of water annually, approximately 100,000 acre-feet of which comes from the SWP. By the year 2020, it is anticipated MWDOC will import approximately 390,000 acre-feet of water.

MWDOC is committed to wisely and efficiently utilizing its integrated water resources pool to cost effectively meet its current and future water needs. MWDOC will continue to rely on water supplies from the SWP as a component of its water resources to meet future needs. To that end, MWDOC fully supports the CALFED process and a consensus based preferred solution that allows urban water users to gain benefits commensurate with investments that will also occur as those gained by the environment and agricultural water users.

MWDOC has received and conducted a review of the first Draft Programmatic Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the CALFED Bay-Delta Program. Our comments begin by presenting the MWDOC policy principles for a CALFED solution that form the framework for our general policy level issues with the CALFED Program and are followed by more detailed comments on the Draft EIS/EIR. Combined, these elements serve as the MWDOC response to the Draft CALFED EIS/EIR.

The accomplishments of the CALFED Program to date are extensive, however, we recognize that considerable work remains to be accomplished in order to include sufficient detail and agreement in the Final EIS/EIR to achieve general consensus necessary for approval and implementation of the preferred Program alternative. As such, we intend our comments to be constructive and remain committed to continue our support of the CALFED process.

MWDOC Policy Principles for a CALFED Solution:

In order for MWDOC to support a CALFED Bay-Delta solution, the solution must meet the following principles.

✓ Getting Better Together:

The CALFED Solution package must provide comprehensive benefits for the environment and for water users. In effect, all stakeholder interests must "Get Better Together".

For the environment, the package must include system-wide investments in ecosystem enhancements. For water users, the package must provide significant improvements in water quality and water supply. In addition, the package will provide the necessary degree of certainty only if it provides comprehensive coverage for all regulatory obligations, combining the State Water Quality Control Plan, state and federal Endangered Species Act (ESA), CVPIA and other requirements into a single, manageable integrated system of regulatory requirements. This includes provisions in the package assuring permitting capabilities for major water quality and water supply facilities in concert with provisions for ecosystem restoration.

✓ Water Quality:

Higher source quality water must be provided for drinking water consumption, groundwater recharge and recycled water development and to balance with the hundreds of millions of dollars water purveyors are investing in advanced treatment technologies.

Water quality – both in terms of health effects and salinity - is an ongoing concern to the Orange County water community. Water in the Delta is affected by drainage from cities and farms, and tidal mixing that carry salts such as bromide into the Delta from the ocean. Bromide in particular is a problem because, when treated with chlorine, it forms disinfection byproducts such as Trihalomethanes, which are a health hazard. A reduction in bromides in the source water may alleviate the need for more costly water treatments in Southern California.

Salinity is also a concern. Most of the imported water to the region is from the Colorado River and is of poor quality due to its high salinity (total dissolved solids, a/k/a TDS). This water quality has an enormous impact to the community. High TDS water reduces the life of plumbing, home water fixtures, landscaping and industrial processes which results in hundreds of millions of dollars in expenditures on repair and replacements. This high TDS water also degrades the quality of groundwater and recycled water. The bottom line is more salt is brought into the region than is removed threatening the region's future economic health. This trend must be reversed.

Two elements must be implemented to solve this problem. The first is underway by developing a salinity management program for the Colorado River. The second element is blending Colorado River water with lower TDS water.

CALFED must provide lower TDS water than is currently available from the Bay-Delta for export to Southern California. This can be achieved by creating multiple diversion points from which export water is taken from the Delta and the method with which it is delivered to Southern California. Currently, water flows through the Bay-Delta and is mixed with seawater. By moving to points of diversion upstream in the Delta and improving the delivery system to the SWP, lower TDS water can be assured from this critical water supply component for Southern California. Overall, higher quality water in Southern California results in an increase in the ability to efficiently use available supplies and provides for increasing public health and economic prosperity.

✓ **Water Supply Reliability:**

Enhance State Water Project (SWP) supplies by improving, with certainty, the ability to transport water from source areas to the SWP while protecting environmental and other beneficial uses of the Bay-Delta.

The ability to receive water from the Bay-Delta is a current risk. The flow-through Delta conveyance method of delivering water is threatened due to flooding, levee breaks and earthquakes. Southern California needs the Bay-Delta system to be free from the potential threat of interruption, possibly lasting several months. In addition, ESA listings eliminated assurances that this supply would remain reliable. These issues can be resolved by implementing the levee restoration program, conveyance enhancement program and addition of new storage and, implementing a single, manageable system of regulatory certainty as part of a CALFED preferred solution. Combined with water quality improvements and environmental restoration, these measures constitute a basic Delta fix.

✓ **Water Transfers:**

Provide regulatory certainty and physical mechanisms to accommodate transfers with no third party impacts; and, costs associated with transfers must be identified and allocated consistent with cost allocation principles.

A free market for water would greatly contribute to Southern California's ability to meet its water demands, particularly in periods of droughts. Federal and state agencies have stood in the way of the development of a free market for water due to current and conflicting regulations and multiple overlying jurisdictions. This can and must be corrected as part of a CALFED preferred solution.

However, removal of regulatory roadblocks is only part of the issue. A Delta fix is critical to opening the market for transfers. Water transfers would primarily occur during periods when

other water would not be moved for export. Fixing the Delta would result in built-in capacity for accommodating transfers. Also, third party impacts need to be mitigated from upstream of the Delta, through the Delta and all the way through to the point of delivery.

✓ **Costs:**

A cost-effective solution with equitable allocation of costs among those benefiting from improvements in the Bay-Delta.

Southern California is going to be asked to pay their share of any CALFED solution. While this should be expected, Southern Californians should not be made to pay for the improved benefits to other areas as a result of a CALFED solution. Urban water suppliers should not be required to pay for benefits received by the agricultural community or for restoration of the environment. The agricultural community should pay for their benefits and the general public should pay for the benefit of a restored environment.

✓ **Water Use Efficiency (Conservation):**

The urban water use efficiency component of the preferred solution must be consistent with the Best Management Practices (BMPs) process including local control over implementing specific measures.

The agricultural water use efficiency component of the preferred solution must be consistent with the MOU regarding Efficient Water Management Practices by Agricultural Water Suppliers in California.

Water use for the environment must be held to the same high water use efficiency standards and requirements as required by urban and agricultural water users.

Recognizing the need to be responsible for how efficiently water is used, the urban water community has invested hundreds of millions of dollars on measures to reduce day-to-day water consumption in their service areas. The CALFED solution must recognize this effort and not require further conservation measures that are unreasonable and may not be able to be implemented due to local conditions. Further, urban water providers require the agricultural community and the environment be as responsible in their water management practices and make similar investments to reduce their water requirements.

✓ **Ecosystem Restoration:**

The preferred solution must contain a comprehensive and affordable ecosystem restoration program that will enhance the ecological health of the Bay-Delta and is consistent with cost allocation principles.

The urban water community supports restoration of the environment as part of the CALFED preferred solution and has shown this by supporting investments in the environment through bond measures. As part of this support, the urban water community requires that environmental restoration measures work, are paid for by the general public and are implemented through fiscally sound management practices. Further, all investments for environmental restoration measures must be balanced with investments in water quality and water supply reliability measures for water consumers.

General Policy Level Issues with the CALFED Program:

1. Not Yet a Complete Alternative

We support CALFED's decision to not select a preferred alternative in the Draft EIS/EIR. Because assurances and financing, including cost allocation principals, are key elements of any proposed solution, no CALFED package can be deemed complete and selected for implementation until an assurances package and finance package have been developed which are acceptable to stakeholder interests and to the CALFED agencies. Further, continued technical work in the areas of water quality, water supply reliability and water use efficiency are also required to ascertain the practical feasibility of any preferred solution.

2. Integration of Common and Variable Programs

MWDOC strongly supports improved links between the Common and Variable Program components, not only in the analyses of alternatives but, also to ensure the Final EIS/EIR remains intact as a single, focused, document so that environmental enhancements, water supply reliability and drinking water quality improvements move forward together in accordance with the principal of "Getting Better Together".

3. Protection of Public Health through Drinking Water Quality

MWDOC strongly supports obtaining the highest quality water source reasonably available and balancing this with investments in affordable, efficient treatment technology to provide high quality drinking water for the protection of public health. It is requested that CALFED place a greater emphasis on source water quality for drinking water. The current technical appendix on the Water Quality Program discusses 25 water quality actions directed at source control mitigation measures. While source control mitigation measures for improved drinking water quality are included in the discussion, the program does not adequately address improved source water quality as a means to improve drinking water quality. To adequately protect public health in accordance with future drinking water standards, even after millions of dollars have been expended on the best, most technically feasible and cost-effective water treatment technology currently available, significant improvement in the quality of water from the Bay-Delta will be required. Addressing the location from which water is diverted from the Delta has been shown through extensive analysis by CALFED and others as the only viable way to improve source water quality enough to assure public health over the long-term in an affordable way. The

CALFED solution must improve source water quality to the point that it provides the highest probability that it can be treated to meet future public health requirements.

4. Drinking Water Quality Parameter Targets

We urge CALFED to resolve water quality targets for bromide and total organic carbon (TOC) before the EIS/EIR is finalized. We support the California Urban Water Agencies' recommendation to adopt water quality target levels of 50 mg/L for bromide and 3 mg/L for TOC as long-term planning targets. These target levels were based on the recommendations of an independent panel of nationally recognized experts in drinking water treatment issues. Further, we do not support CALFED convening another expert review panel since the panel of drinking water experts commissioned by CUWA was independent and included individuals representing different areas of interest and expertise.

5. Water Use Efficiency Savings Estimates and Water Based Sanctions

We fully support implementation of Best Management Practices (BMPs) as a means to achieving urban water use efficiency. However, full implementation of BMPs represents the upper range of savings and will depend, largely, on local determinations of cost-effectiveness. Supplemental funding from CALFED will allow for implementation of BMPs not cost-effective on a local level to meet an overall statewide level of cost-effectiveness and would also stimulate actions towards meeting the BMP objectives even when those actions have been deemed cost-effective. Further, we do not support water-based sanctions as general policies for assuring efficient water use. These policies are inappropriate as a first line of assurance and represent an over-reactive approach to accomplish conservation. We do support administrative sanctions to accomplish a BMP certification process developed by CUWCC for urban BMPs and the Agricultural Water Management Council standards for Ag water management plans.

We also believe estimated savings (in acre-feet) due to conservation should not be used as conservation compliance targets. We support conservation compliance being tied to cost-effective BMP implementation, determined on the local level, and a certification process directed by the California Urban Water Conservation Council (CUWCC) guidelines for urban conservation.

6. Legislative Advocacy for Water Use Efficiency

The CALFED Water Use Efficiency common program should include support of legislation requiring ultra low flow toilet (ULFT) retrofit upon home resale on a statewide basis. Currently, water users throughout the state are providing incentive programs for ULFT retrofit programs in urban areas. Legislation requiring ULFT retrofit upon resale of homes with toilets that do not meet ULFT standards would result in funds that could be redirected to other water use efficiency measures such as landscape and commercial/institutional/industrial efficiency thus, expanding the influence and effectiveness of water use efficiency programs statewide.

7. Cost Allocation

We support a cost-effective solution with equitable allocation of costs among those benefiting from improvements in the Bay-Delta including the public for environmental restoration.

We do not support cost allocation according to past impacts or for future mitigation. While this is not currently advocated in the Draft EIS/EIR, cost allocation for future mitigation of impacts is widely discussed in other CALFED documents. An example of this is water users paying for environmental storage due to future impacts on fisheries resulting from diversions. Water users have supported funding for environmental restoration in the past through bond measures such as Prop. 204. The establishment of a financial baseline to adjust for past or future impacts is inconsistent with a benefits-based cost allocation approach and is not likely to result in a cost allocation approach and financing plan that all stakeholders can support.

Cost allocation of the CALFED preferred solution should be allocated to the beneficiaries including the public.

Cost containment and cost allocation commensurate with benefits received are essential for the success of any preferred solution.

8. The "Soft Path" Approach (Water Use Efficiency, Recycling and Transfers) is Not the Only Answer

MWDOC is committed to efficient groundwater management, conservation and recycling, for the long-term, as a means to reduce import demands and create new water supplies. This is being demonstrated by the hundreds of millions of dollars already spent in Southern California on improved groundwater management practices, conservation and recycling measures and the hundreds of millions of dollars anticipated to be expended on projects currently in the planning process. Further, in most instances, we support utilizing water transfers as a water resources management tool. CALFED must reject the unworkable notion that fisheries, water supply reliability and water quality problems can be solved with a "soft path" approach alone that ignores fundamental structural deficiencies in the Bay-Delta system that impede the ability to manage a limited water resource for multiple, balanced benefits.

Detailed Comments on the Draft EIS/EIR:

Following are MWDOC's detailed comments on the Draft EIS/EIR. The comments are categorized according to the specific title of the document or technical appendix which, when combined, form the Draft EIS/EIR.

Phase II Interim Report:

1. Page 21, paragraph 4 titled, "Water Transfers Interrelationships"

This paragraph states, "Transfers can reduce the need for new or expanded reservoirs." This statement is not accurate. Two items are key to allowing a free market for water transfers to come to fruition in the state. The first is a Delta fix. Without the success of CALFED, water supply reliability and regulatory uncertainty will not allow water transfers to be a component of meeting the water needs for Southern California. The second is storage. Most transfers for Southern California will take place in winter months when storm flows can be captured and stored. The water will then be moved south during summer months for direct use, or for filling Southern California surface storage and groundwater basins. CALFED needs to correctly characterize the interrelationship between storage and the effective implementation of water transfers.

2. Page 44, under the heading "Common Program Elements"

The Water Quality Program description should read, "Makes significant reductions in point and non-point pollution for the benefit of all water uses and the Bay-Delta ecosystem, **and provides a higher quality source water for in-Delta and export uses.** With this modification, there is a link between the Water Quality Common Program and the water quality enhancement aspects of the Variable Programs.

3. Page 45, under the heading "Common Program Elements"

The Water Use Efficiency Program description should read, "Provides policies for efficient use of water in **environmental**, agricultural and urban settings ~~and environmental purposes~~ which is essential to using existing water supplies wisely and assuring efficient use of any new supplies developed through the program."

4. Page 45, under the heading "Common Program Elements"

The Water Transfer Policy should read, "Provides a policy framework to facilitate and encourage a properly regulated water market to move water between users, including environmental uses, on a voluntary and compensated basis, **and in an efficient manner with third party impacts mitigated from upstream of the Delta, through the Delta and all the way through to the point of delivery.**"

5. Page 46, bullet 4 under Long-Term Levee Protection Plan Issues and Concerns

The bullet reads, "There is concern that support for the levee restoration program would wane if an isolated facility were built."

Throughout the EIS/EIR, the isolated component of the dual facility is routinely discussed without emphasizing the fact that we are also talking about a through Delta component, as well. In no forum addressing a Delta fix are these components discussed as mutually exclusive. CALFED should recognize this and characterize the dual facility as a through Delta component with an isolated facility component throughout the EIS/EIR. With this thought in mind, it is

imperative to note here that water quality and water supply reliability of the through Delta component of the dual facility relies on an effective levee restoration program!

6. Page 48, under the heading of the Water Quality Program

This section discusses CALFED's approach to implementing actions of the Common Program element. Broad categories under the Water Quality Common Program include actions for mine drainage, urban and industrial runoff, wastewater and industrial discharge, agricultural drainage and runoff, water treatment, water management, human health and toxicity of unknown origin. Several of these categories generally discuss "source control". However, the one broad category that is obviously missing is one to address an improved drinking water source from the Bay-Delta. Generally, as a drinking water source, water from the Bay-Delta is of very poor quality compared to national averages. In order to deliver the best drinking water to California consumers, it is essential to start with the highest quality water source reasonably available. A high quality drinking water supply for California's urban areas also requires investment in advanced drinking water treatment. These investments are already being made throughout the state. Protection of the watershed upstream of the Delta to improve source water quality and reduced degradation of water as it moves through the Bay-Delta system are required to balance with the investments being made in advanced water treatment. Combined, these measures are necessary to provide high quality drinking water to protect public health into the future.

7. Page 55, under the heading of the Water Use Efficiency Program

Several bullets describing conservation related actions are listed. An action should be added that states CALFED will identify and advocate for legislation that promotes water use efficiency on a statewide basis such as ultra low flow toilet (ULFT) retrofit upon home resale.

8. Page 57, paragraph 1 states, "As a prerequisite to obtaining CALFED Program benefits...water suppliers will have to show that they are in compliance with applicable urban or agricultural council agreements and applicable State law."

MWDOC fully supports implementation of Best Management Practices (BMPs). However, there is a lack of information as to how implementation and monitoring of BMPs will be addressed through CALFED. Until this issue can be resolved with agreement between the federal and state agencies AND the stakeholders, holding benefits hostage from those who will pay for the solution may not be the appropriate approach. Rather than saying "as a prerequisite" to receiving benefits, CALFED should say, "In association with" receiving benefits.

9. Page 64, bullet 2 under Storage Issues and Concerns

This bullet should read, "There are concerns that storage must be financed on a strict "beneficiaries pay" basis because subsidizing the cost of water from storage could would undermine a transfer market and limit implementation of water use efficiency measures. On the

other hand, storage could enhance the transfer market by providing a means to capture water in the winter when environmental impacts would be minimal and used in summer when it is needed.

10. Page 64, bullet 3 under Storage Issues and Concerns

This bullet reads, "Some stakeholders believe that surface storage should only be considered as part of a staged alternative or in the context of linked implementation: storage would not be constructed until certain milestones have been achieved (such as in transfers and water use efficiency)."

It is important to note that this statement is not consistent with CALFED's policy that we "Get Better Together". While simple in concept, this policy has kept the stakeholders at the table and is key to the success of CALFED through to implementation of the preferred solution. Also, it is recognized by CALFED that storage is required for environmental restoration regardless of the solution selected.

11. Page 71, bullet 5 under Conveyance Issues and Concerns

This bullet should read, "There is concern that support for the levee restoration program would wane if an isolated facility were built **even though levee restoration is critical to the through Delta component of a dual facility conveyance program.**"

12. Page 80 under Habitat Impacts of The 18 Distinguishing Characteristics

This reads, "Habitat Impacts – is an assessment of the adverse habitat impacts due to implementation of the storage and conveyance facilities."

Habitat impacts due to storage and conveyance could be positive as well as negative and should be characterized accordingly. Further, habitat impacts (positive or negative) are also associated with the Common Programs and should be evaluated during the planning process for these programs.

This item should read, "Habitat Impacts – is an assessment of the adverse **positive or negative** impacts due to implementation of ~~the storage and conveyance facilities~~ **the Common and Variable Programs.**"

13. Page 80 under Land Use Changes of The 18 Distinguishing Characteristics

This reads, "Land Use Changes – is a measure primarily of the amount of agricultural land that would change to other uses by implementation of the Program."

Land use changes is not only an issue of agricultural land retirement. It is also an issue of public land use changes and should be characterized accordingly. Existing public lands should also be considered for habitat restoration wherever possible.

14. Page 80 under Socio-Economic Impacts of The 18 Distinguishing Characteristics

This should read, "Socio-Economic Impacts – include adverse and beneficial impacts such as commercial and recreational fishing, farm workers, power production, **statewide economic impacts, public health impacts of drinking water quality, agricultural production impacts** and other third party impacts."

15. Page 81, paragraph 1 under Considerations for the Fisheries and Diversion Conflict

This paragraph reads, "One of the primary problems presently encountered in the Delta is the conflict between the need to maintain water deliveries and the sensitive fish species in the Delta which are drawn into the pumps of the State Water Project, Central Valley Project and, to a lesser extent, the Contra Costa Water District intakes in the southern and western-central Delta. Currently, there are requirements for pumping activities to be curtailed during periods when sensitive species are present in the Delta. Future evaluations may indicate the need for further restrictions. This is the most important factor causing conflict presently and, left uncorrected, is likely to produce greater conflict in the future."

This discussion totally ignores the potential benefit to fish and water supply from an effective adaptive management plan which provides real time monitoring and operational flexibility at the diversions and export pumps, and the regulatory flexibility to utilize such data for exporting water when fish counts are low or the flow of water into the Delta is unseasonably high. CALFED should not make references to further export restrictions in the future without discussing the effect of adaptive management potentially negating requirements for restrictions. Further, more work needs to be performed to ascertain the extent to which flow patterns actually play a role in fish entrainment.

16. Page 84, paragraph 2 under Use of Storage to Enable Export Curtailments

This discussion addresses in-Delta storage (flooded islands), near-Delta storage (such as Los Vaqueros) and off-aqueduct south of Delta storage (groundwater storage). The last two sentences should read, "Both forms of storage (**in-Delta and near-Delta**) would have a higher yield than off-aqueduct storage south of the Delta, because this storage could be filled directly from the Delta without using aqueduct capacity needed to fill other reservoirs during wet periods. Water quality, **water supply reliability (including an earthquake proofed system)**, environmental impact, and redirected impact considerations, along with cost information will determine the choice between these **three** approaches."

17. Page 85, paragraph 1

This reads, "Existing Screens at Existing Banks and Tracy Pumping Plants – Fish entrainment in the water project intakes, along with predation that occurs in Clifton Court, are major sources of fish losses in the system."

Predation is not an export issue and should not be characterized as such. Predation, whether it occurs in Clifton Court or elsewhere in the Delta, is a natural phenomenon. Arguably, the location of predation in the Delta may be influenced by export pumping.

18. Page 87, paragraph 2 under Operating Criteria

The first sentence should read, "Bay-Delta standards are not static – as the health of the Bay-Delta has declined over the past several decades and, as the water demands on the Delta (for fisheries, environmental enhancement and exports) have ~~for water supplies from the Bay-Delta system has grown~~, progressively more protective standards have been implemented.

19. Page 99, paragraph 1 under Delta Conveyance Facilities

The first sentence should read, "Under this alternative, a dual conveyance facility composed of a through Delta component and isolated facility component(sized between 3,500 cfs to 15,000 cfs) ~~an isolated facility of 10,000 plus or minus 2,000 cfs~~ would be constructed.

20. Page 108, paragraph 1 under Total Cost

This paragraph refers to a \$10 billion total cost for the entire CALFED program. According to other experts, this total cost is greatly overstated. CALFED must work diligently to refine the program costs prior to finalizing the EIS/EIR.

21. Page 124 paragraph 3

The second sentence should read, "First, significant increases in water supply opportunities for the environment and exports are only provided if new storage is included under all Program alternatives.

CALFED should emphasize their findings that environmental restoration requires storage regardless of the preferred solution selected. There is a common misperception by the public that new storage would only be for water users.

22. Page 136, paragraph 1 under Implications of the Delta Conveyance Decision on Export Water Quality

The last three sentences read, "All of the alternatives result in improved drinking water supplies largely through implementation of Water Quality Program element actions such as urban, agricultural, and industrial runoff reduction. However, some water quality parameters are less affected by source control strategies. For this reason, the choice of a Delta conveyance alternative may have important implications for drinking water quality."

CALFED must emphasize the need for an improved source of drinking water supplies to balance the costs of an improved water source with investments in advanced water treatment. See comment number 6 above.

23. Page 150, the first bullet under Assurances

This bullet should read, "**In keeping with 'Getting Better Together'**", each stage should be completed before the next one can begin."

24. Page 153, paragraph 3 under Financial Principles, Benefits-Based Approach

This discussion focuses on a cost allocation principle based on water users paying for past damage to the ecosystem. This principle has the serious potential for destroying the CALFED process. To date, CALFED, with a lot of hard work from the agricultural and urban communities, has been able to keep the process intact. The Ag/Urban Policy Group has made great strides to get beyond past differences between these communities. Although invited to participate, the environmental community has yet to engage in the process where we can all "Get Better Together". If this notion of paying for past sins continues to be perpetuated down the road of this process, there is a serious threat that the parties will not stay engaged. Failure of CALFED would truly be a loss to the state and the entire nation.

Water Use Efficiency Component Technical Appendix:

The goal of CALFED's Water Use Efficiency program is to reduce the mismatch between Delta water supplies and demands by encouraging environmental, urban and agricultural conservation and urban recycling. The program stresses planning, technical and financial assistance over regulatory actions and builds on the strengths of the Memorandum of Understanding for Urban Water Conservation and Efficient Agricultural Water Management Practices.

CALFED projects that by the year 2020, in the absence of a CALFED Program, statewide urban conservation and recycling will result in annual "real" water savings of 1.48 MAF and 1.17 MAF respectively ("Real" water savings result from conservation of water that would otherwise be discharged to the ocean or a salt sink). Implementation of the CALFED Program is projected to generate additional statewide urban conservation and recycling savings of approximately 0.74 MAF and 0.5 MAF respectively. About two-thirds of urban conservation and three-quarters of urban recycling are projected to come from Southern California. CALFED's projected savings from urban water conservation under the No Action alternative are almost twice as high as those in DWR's Bulletin 160-98, even though bulletin 160-98 assumed full implementation of urban

Best Management Practices (BMPs) by agencies on a statewide basis. Also, CALFED's projected savings from recycling are inconsistent with urban agencies' planning targets. MWDOC's comments on the CALFED Water Use Efficiency Program include:

- The projected real water savings from urban conservation and recycling appear to be overstated. Urban water conservation projections should be based on realistic, tested data and should be consistent with the urban BMPs. The sources of CALFED's projections are not explicitly defined. If conservation projections are to remain in the EIS/EIR, CALFED needs to work with Metropolitan to update the Met IRP projections and utilize those projections in the CALFED EIS/EIR for the South Coast Region.
- Irrespective of the derivation of conservation projections, we believe estimated savings should not be used as conservation compliance targets. Conservation compliance should be tied to cost-effective BMP implementation, driven by local cost assumptions, and a certification process directed by the California Urban Water Conservation Council (CUWCC) guidelines for urban conservation.
- Rather than focus on specific recycling targets, CALFED should focus its efforts on removing regulatory impediments to the project development process while addressing source water quality concerns. Recycling investments will continue to be justified locally for a combination of reasons, which are rarely the same across the state. These issues include water supply alternatives, and sewage capacity and disposal. Assurances that cost-effective recycling projects are being pursued should take the form of a review of planning and implementation efforts built on demonstrating agencies conform to the requirements of the Urban Water Management Plan Act. To the extent CALFED seeks to develop recycled water supplies beyond levels which can be justified locally, funding for those efforts must be provided from state and federal sources.
- Substantial state and federal funding will be needed to help agencies meet conservation and recycling targets under both the No Action and CALFED Program scenarios.
- MWDOC concurs with CALFED's assumption that urban water savings will in most cases only offset a portion of the increasing unmet demands and will not necessarily result in reduced Delta exports.
- MWDOC concurs with CALFED's assumption that conserved water will remain under control of the conserver for discretionary use or reallocation.

Detailed comments on the Water Use Efficiency Technical Appendix are as follows:

1. Page 2-6, paragraph 3 under General Assurances

We support the use of the existing consensus-based California Urban Water Conservation Council and Agricultural Water Management Council processes for the development of assurances. Further, we support these agencies' certification processes as the conservation management tools for use by the CALFED agencies to monitor compliance and recommend CALFED participate in the funding of these certification processes.

The CUWA and EWC have jointly developed a proposed framework for BMP implementation and certification. This framework builds on recommendations contained in the Common

Program for urban BMP certification. The CUWA Board recently endorsed submittal of this framework to CALFED for broader stakeholder consideration. It should be noted, however, that this is placeholder framework pending an acceptable overall CALFED solution.

2. Page 2-9, paragraph 1 under Additional Assurances

The last sentence states, "Widespread demonstration of efficient use by local water suppliers and irrigation districts could be a prerequisite to CALFED implementation of other Program actions for water supply reliability."

We support efficient water use in accordance with the State Constitution and California Water Code. We also recognize, and encourage CALFED to recognize, that demonstration of efficient water use includes planning efforts and cost-effective analyses of BMPs, as well as actual implementation of BMPs deemed cost-effective at the local level. We encourage CALFED to participate in funding BMP planning efforts, as well as actual BMP implementation.

3. Page 2-18, paragraph 1 under Item 5. Assurances for Urban Water Management and Conservation

The second sentence states, "A process of certification coupled with sanctions for failure to comply with the terms of the Urban MOU will help assure that appropriate cost-effective measures are being implemented."

The document includes water-based sanctions as a general policy for assuring efficient water use. This type of policy is inappropriate as a first line of assurance because it would be cumbersome to implement uniformly and effectively and represents an over-reactive threat to accomplish conservation. CALFED acknowledges stakeholder efforts to develop administrative sanctions to support a certification process, which are more likely to be effective, easier to implement and should constitute the first avenue to assure efficient water use. Even imposing water-based sanctions on those agencies unresponsive to administrative sanctions should only be a last ditch effort, after all other options were exhausted including providing CALFED funding assistance for conservation measures.

4. Page 2-18, paragraph 5 regarding SWRCB investigating possible waste and unreasonable use violations.

The second and third sentences read, "To alleviate this problem, non-compliance fees could be directly deposited in a fund to be used by SWRCB for employing staff to perform investigations requested by the (California Urban Water Conservation) Council. Alternatively, the Council could hold funds in an account and make an allocation to the SWRCB each time a violation is referred.

We support fines for those violators who unreasonably use or waste precious water supplies. However, tentative funding for violation investigations as suggested above have the possibility

of frivolous investigations merely to keep the flow of funds to secure the positions of staff assigned to non-compliance investigations.

5. Page 2-19, paragraph 1 under Approach to Effective Use of Diverted Environmental Water

The second sentence reads, "These needs include appropriate instream flows, where water is the environment that supports aquatic species and processes..."

CALFED should emphasize their finding that appropriate instream flows for the environment are only achievable through new storage dedicated to the environment.

6. Page 2-19, paragraph 3 under Approach to Effective Use of Diverted Environmental Water

The second sentence reads, "This program may include "Best Management Practices" for efficient use or development (of) a water use management planning process for refuge and wetland areas of the (Central) Valley."

We support development of BMPs for environmental use of water and support holding the environmental use of water to the same stringent BMP certification and sanction process as urban and agricultural BMPs.

7. Page 2-21, paragraph 5 under Water Recycling Project Development Actions

This paragraph states that CALFED recommends recycling be added as an urban BMP.

We support heavy investments in recycling projects that are economical and politically feasible. However, we do not support recycling be added as an urban BMP. Each specific recycling project is unique and has its own set of tests the project must meet to make the project economical and implementable. Southern California has in the past and currently continues to pursue recycling projects as a means to increase water supply reliability. Many recycling projects in Southern California have been constructed, even after they have been found uneconomical in the planning process, due to Southern California's commitment to providing a reliable supply of water to the region. Due to the local political decisions that need to be made that result in investing in recycling projects, we believe a certification process that relies on cost-effectiveness as the test a project must meet in order to meet a BMP does not accurately characterize the decision making process required for recycling projects.

8. Page 2-22, paragraph 5 under Item 3. Funding Assistance

We support CALFED as a funding mechanism for all types of conservation and recycling activities. While Southern California has made huge strides in conservation and recycling there is still much to be done to meet the Metropolitan Water District of Southern California Integrated

Resources Plan (IRP) goals for conservation and recycling. Many of the projects listed in the IRP are not economical and will require outside funding for the local agency to be able to construct and operate.

9. Page 5-43, table titled, "Estimated Real Water Savings for reallocation to Other Water Supply Uses" in the South Coast section of Urban Conservation

CALFED estimates the South Coast region will achieve 980,000 AF - 1,040,000 AF water savings under the No Action alternative and an additional 430,000 AF - 460,000 AF water savings under CALFED for a total real water savings of between 1,410,000 AF to 1,500,000 AF by 2020. These estimates appear to be grossly overstated. The sources of these estimates are not explicitly defined in the EIS/EIR. We request CALFED document the sources of these conservation savings estimates.

Although page 5-1 states, "This section is intended to be used solely for Phase II impact analysis and is not intended to provide planning recommendations", the information in this section will be used by some during negotiations as hard fact. Therefore, CALFED must work with local agencies, particularly Metropolitan Water District of Southern California, to more accurately depict the true conservation and recycling potential in the region.

In 1991, Metropolitan, MWDOC and other major California water agencies, together with the environmental community and other public interests groups signed the Memorandum of Understanding Regarding Urban Water Conservation Best Management Practices (BMPs). The BMPs are conservation programs designed to be cost-effective over the long-term. The agreed upon water savings that result from the implementation of the BMPs were based on the best available data and are subject to revision as the state of knowledge improves.

The Met IRP was completed in 1996 and involved work with all its 27 member agencies and hundreds of hours of staff time. The IRP defines water conservation as "long-term programs that require investments in structural programs such as ultra low flow toilets, low flow showerheads, or water efficient landscape irrigation technology - coupled with ongoing public education and information." The Met IRP conservation programs further include residential water audits, large turf audits, distribution system leak detection and repair and, commercial/industrial/institutional conservation. The region's strategy involves implementation of cost-effective long-term programs that have quantifiable savings.

After much work, Metropolitan projected conservation, utilizing BMP implementation, to be up to 880,000 AF by 2020 in its service area. As with all planning projections, this level of conservation is currently being re-analyzed and updated.

CALFED's conservation projections are based on conservation measures beyond statewide implementation of BMPs and do not take into account local planning efforts or cost-effectiveness of BMP implementation on the local level. Further, CALFED projects that two-thirds of statewide conservation will occur in Southern California. Although the EIS/EIR states,

“Analysis of cost-effectiveness of various efficiency measures and who will pay will be determined locally on a case-by-case basis during planning and implementation”, CALFED must work closely with Metropolitan to accurately project the amount of cost-effective conservation that may be attained in Southern California by 2020 and reflect those projections in the EIS/EIR.

10. Page 5-47, Table 5.4 –Estimated Real Water Savings for Reallocation to Other Water Supply Uses, page 5-52, Table 5.9 – Range of Costs to Achieve Various Customer Level Conservation Improvements in Each Region and page 5-53, Table 5.10 – Estimated Water Supplier Conservation Improvement Costs to Move Beyond Baseline Conditions

There appears to be a discrepancy between these three tables. Table 5.10 projects conservation improvement costs to the South Coast region to be \$76,600,000. Based on the conservation projections beyond the No Action alternative of 430,000 AF – 460,000 AF listed in Table 5.4, the cost for this conserved water ranges from \$166-\$178 per AF. Table 5.9 estimates conservation costs to be \$400-\$600 per AF.

The Metropolitan IRP estimates costs for BMP implementation range from \$150-\$250 for low flow showerhead replacement and \$300-\$400 per AF for ultra low flow toilet replacement to as much as \$650 per AF for the upper range of CII conservation measures. Implementation of conservation measures beyond BMPs will be even more expensive. The cost estimates in Table 5.10 need to be re-evaluated.

11. Page 6-1, paragraph 3 under Water Recycling

Sentence 2 states the water recycling can, “help achieve CALFED Program objectives for water supply reliability.”

Water recycling is a way to “help” achieve water supply reliability and Southern California is making investments totaling hundreds of millions of dollars in recycling. However, the greatest stride in achieving supply reliability for Southern California will be to fix the Delta and fully implement the Common and Variable Programs.

12. Page 6-4, paragraph 1, last sentence

We support CALFED assuming a planning and financing assistance role for recycling projects.

13. Page 6-13, Table 6.3 – Summary of Incremental Statewide 2020 Water Recycling Potential

This table estimates the South Coast region will achieve 900,000 AF of recycling in 2020 under the No Action alternative and between 0 AF – 550,000 AF additional recycling under the CALFED Program for a total recycling of between 900,000 AF and 1,450,000 AF in 2020. These estimates appear to be grossly overstated. The sources of these estimates are not explicitly

defined in the EIS/EIR. We request CALFED document the sources of these recycling estimates.

The Metropolitan IRP identified 160 existing and potential recycling projects in its service area. If all the projects identified were developed, it was estimated 800,000 AF of annual recycling could be obtained by year 2020. Of that potential 800,000 AF, the first 350,000 AF was estimated to cost less than \$350 per AF, the next 350,000 AF increment is estimated to cost \$350 per AF - \$750 per AF and the last 100,000 AF recycling potential skyrockets in cost up to \$2,250 per AF. This points out that the easiest, least expensive, recycling projects would be targeted for implementation before the more expensive projects. It also shows that Metropolitan identified a break point around 700,000 AF project potential where recycling project costs climb nearly vertically for each new acre-foot of recycled water produced. These high cost projects invariably bring significant political problems with them as well.

Based on the selection of cost-effective local and imported resources, Metropolitan defined a preferred resource mix, which includes 450,000 AF recycled water supply by 2020. This level of recycling was chosen as a cost-effective balance between recycling and all other resources available to Metropolitan including State Project Water.

The CALFED projections for recycled water potential for the South Coast region are overstated. CALFED must work closely with Metropolitan to accurately project the amount of cost-effective recycling potential that may be attained in Southern California by 2020 and reflect those projections in the EIS/EIR.

Water Quality Program Technical Appendix:

1. The Water Quality Program must be more fully integrated with the other Common and Variable program components. The beneficial effects of storage and conveyance on drinking water quality and the negative effects of the ecosystem restoration program on drinking water quality are not adequately addressed in the Water Quality Program Technical Appendix. Storage and conveyance facilities provide the ability for timed releases and higher source water quality to meet the program's drinking water quality objectives. Whereas, habitat restoration through levee setbacks has the potential to harm drinking water quality by increasing total organic carbon levels in drinking water.
2. The Water Quality Program targets should be used to evaluate the impacts of the alternatives. The technical appendix includes narrative and numerical water quality targets for each water quality parameter of concern. The appendix states that the targets, "...will be used as indicators of success to determine the effectiveness of water quality actions." Yet, in the Draft EIS/EIR, CALFED does not reference the water quality target levels and the targets are not used to evaluate the water quality impacts of the CALFED alternatives. Water quality targets should be used by CALFED in the programmatic level evaluation of the CALFED alternatives.

Implementation Strategy Technical Appendix:

1. The Implementation Strategy Technical Appendix addresses assurances and financing. Both the assurances program and financing program are characterized as, "much work needs to be completed." Further, on page 2, first paragraph, the last sentence reads, "Without a sound assurances proposal, implementation of any preferred alternative is uncertain."

As previously stated, we support CALFED's decision to not select a preferred alternative in the first Draft EIS/EIR. Because assurances and financing, including cost allocation principals, are key elements of any proposed solution, no CALFED package can be deemed complete and selected for implementation until an assurances package and finance package have been developed which are acceptable to stakeholder interests and to the CALFED agencies. In addition, we can only support a preferred alternative that provides certainty that water supply reliability and water quality will be achieved upon implementation of the long-term solution and at an equitable and affordable cost. The package should include a no surprises provision and other protections to ensure water users regulatory certainty and supply reliability.

It is important that assurances distinguish between guarantees of actions versus guarantees of outcomes. Actions can be guaranteed, outcomes cannot. Assurances must therefore be devised to guarantee actions and incorporate strategies to adapt the assurances should desired outcomes not be achieved.

2. Page 13, under Stage III – near-term implementation. January 2000-December, 2000.

This section identifies four stages to begin implementation of the long-term solution. Under Stage III implementation of the levee stabilization program, ecosystem restoration program, water use efficiency program and water quality program are mentioned. CALFED needs to add planning and permitting processes for storage and conveyance for implementation in this time period in accordance with the concept of "getting better together."

3. The costs of the CALFED Program actions should, to the extent possible, be allocated to the beneficiaries of those actions, including the public.
4. We support the use of a benefit-based cost allocation approach. As such, we do not support the establishment of a "financial baseline" to adjust for past impacts and predict that such an approach will result in a financing plan that all stakeholders cannot support.
5. Cost containment is paramount to a successful program, as is ensuring that costs are allocated commensurate with the benefits received.

Mr. Rick Breitenbach

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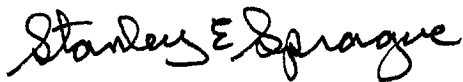
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6. MWDOC supports that if one region of the state complies with certification requirements and another region does not, water supply reliability and quality measures should be implemented to benefit the agencies in compliance. In other words, agencies / stakeholders in compliance should not be held captive by agencies/stakeholders that are out of compliance.

Again, we support the CALFED process and look forward to continuing to work with CALFED and other stakeholders to gain a long-term Bay-Delta fix that will be acceptable to all stakeholders.

Please do not hesitate to contact us with questions or for further information.

Sincerely,

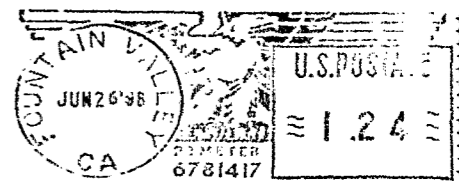


Stanley E. Sprague
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JUN 30 1998

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